EXHIBIT E

STATE OF CALIFORNIA
ARTMENT OF CORRECTIONS AND REHABILITATIO.
INMATE APPEALS BRANCH
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

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DIRECTOR'S LEVEL APPEAL DECISION

WAY 3 1 2007

Date:

In re: Martinez, H-93376

Pelican Bay State Prison
P.O. Box 7000

Crescent City, CA 95531-7000

IAB Case No.: 0611949

Local Log No.: PBSP 06-03253

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner R. Pimentel, Facility Captain. All submitted documentation and supporting arguments of the parties have been considered.

- I APPELLANT'S ARGUMENT: It is the appellant's position that the Pelican Bay State Prison (PBSP) Institution Gang Investigator (IGI) has implemented a policy that all outgoing correspondence will be stamped to identify that the mail is from PBSP. The appellant contends that this policy is excessive and exceeds the IGI's authority. The appellant asserts that the stamp renders the mail unreadable and defaces the mail. The appellant requests to be monetarily compensated for the violation of his rights.
- II SECOND LEVEL'S DECISION: The reviewer found that the gang members that are housed in the PBSP Security Housing Unit (SHU) frequently use the mail as a means to communicate gang information. The PSBP implemented a procedure to identify the point of origin for all immate correspondence. The PBSP stamps all outgoing correspondence with "Pelican Bay SHU" and the housing unit it was sent from. The stamp is in pale orange ink and is intended to inhibit the flow of gang information. The reviewer noted that SHU immates often utilize various methods to send messages to immates that are housed at other CDCR institutions and the stamp is intended to alert staff at other institutions that the correspondence originated at PBSP. The reviewer advised the appellant that the stamp is placed across the immate writing so as to prevent removal of the stamp via photocopying. The Second Level of Review (SLR) denied the appeal.
- III DIRECTOR'S LEVEL DECISION: Appeal is denied.
 - A. FINDINGS: The documentation and arguments are persuasive that the appellant has failed to support his appeal issues with sufficient evidence or facts to warrant a modification of the SLR. The institution has presented the appellant a thorough and comprehensive review of the appellant's issue and the Director's Level of Review (DLR) finds no basis to alter said decision. The DLR finds that a legitimate penological interest exists for the PBSP to stamp all outgoing immate correspondence. The PBSP presented an articulate basis that the correspondence must be stamped across the writing so as to prevent photocopying which would remove the stamp. The PBSP IGI is tasked with hindering the communication methods that are used by the various gang members housed at PBSP. The PBSP procedure is a legitimate means to accomplish this goal. The DLR notes that the appellant's correspondence is still legible. Therefore no relief is provided at the DLR.
 - B. BASIS FOR THE DECISION: California Code of Regulations, Title 15, Section: 3000, 3001, 3006, 3023, 3130, 3131, 3270, 3380
 - C. ORDER: No changes or modifications are required by the institution.

MARTÏNEZ, H-93376 CASE NO. 0611949 PAGE 2

This decision exhausts the administrative remedy available to the appellant within CDCR.

N. GRANNIS, Chief Inmate Appeals Branch

> Warden, PBSP Appeals Coordinator, PBSP



PELICAN BAY STATE PRISON SECOND LEVEL REVIEW

DATE: MAR 0 7 2007

Inmate MARTINEZ, H-93376 Pelican Bay State Prison Facility C, Security Housing Unit Building 7, Cell 224

RE: WARDEN'S LEVEL DECISION APPEAL LOG NO. PBSP-C-06-03253

APPEAL: PARTIALLY GRANTED ISSUE: MAIL

This matter was reviewed by ROBERT A. HOREL, Warden, at Pelican Bay State Prison (PBSP). Correctional Sergeant E. Enos interviewed the inmate on January 12, 2007, at the First Level of Appeal Review.

ISSUES

Inmate Martinez requests the stamping of his outgoing mail cease and to be compensation for the destruction of his outgoing mail. He also requests no reprisals be taken against him as a result of filing this appeal.

FINDINGS

Ι

The inmate disputes the institutional requirement that all outgoing correspondence leaving the Security Housing Unit (SHU) be stamped diagonally across any writing in red ink to establish its point of origin as described in an Associate Warden's memorandum of November 13, 2006. He claims it defaces the correspondence and has attached a greeting card to the appeal as an example.

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The California Code of Regulations (CCR), Title 15, Section 3270, requires security take precedence over all other considerations in the operation of programs and activities within the institution.

The CCR, Title 15, Section 3084.1 (d), prohibits reprisals from being taken against an inmate for filing an appeal.

DETERMINATION OF ISSUE

A subsequent Associate Warden's memorandum dated December 20, 2006 clarifies that it is not the intent of the requirement to deface the inmate's correspondence but rather provide a means to recognize correspondence that is unauthorized. Additionally, a pale orange stamp is now being utilized which lessens the stamp's intrusion on the correspondence.

Supplement Page 2 MARTINEZ, H93376 Appeal # PBSP-C-06-03253

As a result, a determination has been made that modifications to the institutional procedure are unwarranted as security concerns must take precedence and the stamping does not make the writing on the correspondence illegible. Nevertheless, reprisals will not be taken against the inmate for filing the appeal; therefore, the APPEAL IS PARTIALLY GRANTED. However, financial compensation is not within the scope of the appeals process.

MODIFICATION ORDER

No modification of this action or decision is required.

ROBERT A. HOREL\
Warden

BDS #49 2-26-07

FIR. LEVEL SUPPLEMENTAL PAGE

RE: PELICAN BAY STATE PRISON (PBSP)
Appeal Log Number PBSP-C-06-03253

First Level Reviewer's Response

INMATE: MARTINEZ, H-93376

APPEAL DECISION: DENIED

APPEAL ISSUE: (MODIFIED)

You claim your rights are being violated. Specifically, you claim your mail is being defaced and destroyed when staff stamps a notification mark with red ink on each page in the name of security.

ACTION REQUESTED:

You want this policy of stamping all outgoing mail discontinued and that you want to be compensated for the destruction of and censoring of your correspondence.

FINDINGS:

Your appeal, including your requested remedial action, has received thorough and careful consideration. Correctional Sergeant E. Enos was assigned to interview you by the First Level Reviewer. Sergeant Enos investigated your appeal and accusations. On January 12, 2007, Sergeant Enos interviewed you. During the interview, you stated you did not want to add any information to your written appeal.

The memorandum, "POINT OF ORIGIN IDENTIFICATION STAMPS," dated November 13, 2006, authored by Correctional Captain K. McGuyer of the Investigative Services Unit, gives specific instructions on how staff is to stamp inmate mail. Staff is cautioned to stamp mail so that it does not interfere with the intended address to avoid interference with processing by the mailroom and the United States Postal Service.

The stamped mail you submitted was reviewed. The front side of the envelope that contains the greeting card has a stamp that is in between the intended address and the return address; therefore, it does not interfere with the mailing. Inside the greeting card, a stamp is placed in the body of the text. The text is still readable, and did not interfere with the mailing nor was it censored in any way. Staff stamped your mail in accordance with institutional directives.

DETERMINATION OF ISSUE:

Based on this review, your action requested to resolve this appeal is **DENIED** at the First Level of Review.

U. SILVA

Date

Facility Captain

C Facility

C. M. SCAVETTA
Associate Warden

Security Housing Unit

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such as Certificates, diplomas, College papers, and College Scantrons, Non-Confidential legal papers as well as a plethora of other mailings, This New Onderground fability entails an adverse Consequential restriction on the [Constitutional] rights of Both personers and those us no are not presoners! Per CCR. 3331 before implementation and revision is Made to an approved Plan of operation Conversing Mail, this Plan will require the directors approval before implementation, and before any revision is made it on approved plan. It for their states that procedures shall Conform to the policies, regulations and provisions of law, which includes CCR 3130. Which States in part ofthat Sending of Mail will be uninhibited.

It is orbundantely clear that others from Underground policy is 1884 "Beasonably related to registimate penological objectives? This exaggerated response to sopposed. ll gang activity, or illegal Communication or Circompention is unnecessarily broad, and 6. Tang activity, Or illegal Communication or Circompention is Onnecessarily broad, and not related to legitimate folicies, and gook of othe CDCR. system.

7. IGI. Captain McCy eyer indicates other other Stamping is directsoury to identify the origin. Of ym mailings. In which my crown of crosson for Stamping Marlings is also observed. As p. B.S. P. SHV. Already has many established Sufequency in place to prevent any form of circomvention (Boomer and method) or third party mail. For instance per PRSP. Oferational procedure # ZS. Ym mail. and PRSP StD orientation manual. All Thus are required that but others fish names, CDC #S. and Housing Dairt and Cell himbers. And the free hand Corner of all outgoing mail. ofon Mail py know which is detailed of fivers Scan all Mail at yms doors to See that other retains address is correct. And that the name of cell momber husing with its impact of the name of cell momber husing with its impact of the name of cell momber husing with its infection. The standards of state of the name of cell momber husing the is softened violations. First worth Staff will send mail to Italians. If they have to contraband or Circomvention violations. It for inspection, and if they be trick any deviations from established frocedure. for inspection, and if He/she Finds any deviations from established procedure, Hebble in otorn send this mailing to facility captain. Hence, other is already a four ther level of Preventive Security Niethods established to curtail any mail prolations Dro Rational Connection exists between others policy and legitimate Pemploqueal interests. As safequerds are already in place. 2) Even if "their was a begit-inate peuplogical interest behind this underground folicy. Their is no reason why a smaller stamp Could not be villized. And placed only on other everse side of Marlings. Such as back of tetters, courds, protores, drawings etc. However; the procedures already in place nullify the use of othis represent and offersive stamp; your street population cell numbers land mossing parts on the Muling employes. A Stamp pander neath the return address refreating the same information is Redundant and vindictive, and only further stigmatizes and ostuacizes prisoners from non prosoners. 3). The impact of other policy adds to othe workload OF Staff unnecessarily and Costs a significant amount of money to porchase Stamps and a Constant supply of int. for 22 mousing Units, not "Counting Canteen, Medical and program facilities. 4). The policies and procedures already in effect that maindates your to, put other cell, and mousing unif Nombers as well as full names and cal numbers, is self evident that this policy is not reasonable. Forther more othe implication that some your may resorte mail or repackage letters. And that a stamp usual prevent this is frivolous and Inept. All it would state to by fors. a "stang" woold be to rewrite, retyler or replicase a mailing and forward to a others party. Thus others theory holds no water and is without owerit. Continued on RELERSE

"'Glory to God in the highest, and on earth peace, good will toward men.'" LUKE 2:14 KJV

HARVEY FAMILY.

Amid the sounds of the season, may you hear the angel chorus. and joyfully sing along.

O.BOX 7500 C-7-224. SHU RESCENT. CITY. CA-95532

ICAN BAY S.H. UNIT C-7

20. Box 517 TON HARUEY MILL, SC-29716

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M mo idum

Officere Rod fris

Date

Nove 13, 2006

All Secur. *-lousing Unit Staff

Department of Corrections and Rehabilitation

Pelican Bay State Prison, P.O. Box 7000, Crescent City, CA 95532-7000

Subject

PROCESSING OF ALL OUTGOING AND INSTITUTIONAL MAIL

Effective immediately, staff processing outgoing mail from the Security Housing Unit will ensure the mailing and all its contents are stamped with red ink indicating the unit of origin. Only red ink shall be utilized to not interfere with the readability of the inmates writing in state-issued black ink. This process shall include all institutional mail. The following instructions will be adhered to when processing this mail:

First class mail: This mail will be stamped on the outside of the envelope and all contents of the envelope. Each page of the letter will be stamped through the writing diagonally to prevent any third party mailer from removing the mark and photocopying the correspondence for forwarding. The envelope of each mailing shall be stamped to the left of the intended recipient's address. Caution must be utilized not to stamp over the intended address so there is no interference with the United States Postal Service processing.

Legal mail: Only the outside of the envelope will be stamped, preferably on the reverse side

across the seal.

> Postcards: Process the same as First Class mail - A T

Institutional mail: The reverse of the form utilized may be stamped. If the form utilized by the inmate is double-sided then discretion will be used in the location of the stamp to not interfere with the processing of the form. Upage from envelopes must have the contents stamped the same as First Class mailings.

All mailings or correspondence leaving the unit must be stamped. Therefore, it is advised only unit staff will be allowed to accept mail or forms for mailing. If unit visitors find it necessary to accept mail or forms from an inmate, unit staff will ensure the mailing or form is stamped prior to leaving the unit.

Staff are reminded that this process is implemented for tracking the point of origin of each mailing and discretion shall be utilized at all times to not deface or alter the mailing itself.

Attached to this memorandum are examples of preferred locations for stamp placement.

If you have any questions, please call Sergeant J. Beeson at extension 9086.

C.M. SCAVETTA

Associate Warden

Security Housing Unit

Attachments

cc: J. Beeson